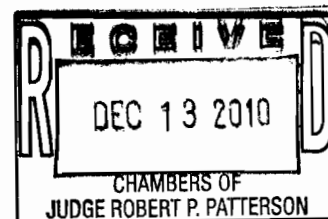


LEVI LUBARSKY & FEIGENBAUM LLP

ATTORNEYS AT LAW
1185 AVENUE OF THE AMERICAS
17TH FLOOR
NEW YORK, NEW YORK 10036

TEL (212) 308-6100
FAX (212) 308-8830
WWW.LLF-LAW.COM



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December 10, 2010

VIA FACSIMILE TO (212) 805-7917

NOT RECORDED

Hon. Robert P. Patterson
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Levin v. Bank of New York, Case No. 09 Civ. 5900 (RPP) (S.D.N.Y.)

Dear Judge Patterson:

We represent defendant and third-party plaintiff The Bank of New York Mellon ("BNY Mellon") in the above-referenced proceeding.

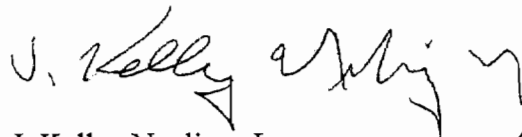
I am enclosing a proposed consent judgment dismissing third-party defendant Bank of Tokyo Mitsubishi UBJ, Ltd. ("BTMU") from BNY Mellon's third-party action in this proceeding. BTMU has asked to be dismissed from the case because it is not asserting any claim to any of the funds involved in Phase 1 of this proceeding and it does not want to be burdened with the expense of remaining in the case as a party, and BNY Mellon has acceded to this request, which seems reasonable to it, by agreeing to the enclosed proposed judgment. I believe that the Court has already dismissed another third-party defendant from this case under similar circumstances.

I have copied only counsel for plaintiffs, the Greenbaum and Acosta judgment creditors and the Heiser judgment creditors on this letter based on my understanding that the modified sealing order entered by the Court in this case on January 21, 2010 still protects the identity of parties to blocked wire transfers, such as BTMU. Because BTMU has filed its answer to the third-party complaint under seal, I do not believe that any of the other parties who have appeared in the case are even aware that BTMU has appeared and answered.

Hon. Robert P. Patterson
December 10, 2010
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For the same reason, we would ask the Court to file the consent judgment under seal in the event that it determines to enter it as a judgment in this proceeding.

Respectfully submitted,



J. Kelley Nevling, Jr.

cc: George Hritz, Esq. (by e-mail with enclosure)
Suzelle M. Smith, Esq. (by e-mail with enclosure)
James L. Bernard, Esq. (by e-mail with enclosure)
Richard M. Kremen, Esq. (by e-mail with enclosure)

*application denied without
prejudice to renewal after
after Bank of Tokyo reports to
the Swiss outstanding request
for information*

*So ordered
Robert P. Patterson
12/13/10*